

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CR-0067

XENGXAI YANG,

Defendant.

ORDER FOR PSYCHOLOGICAL EXAMINATION

On June 11, 2019, the defendant filed a notice of intent to pursue an insanity defense pursuant to Fed. R. Crim. P. 12.2(a). The notice was untimely filed, but the court found good cause to allow the defense. The government has moved for a court ordered evaluation. Based on the foregoing and in accordance with Rule 12(c)(1)(B), the court hereby orders that the defendant be examined under 18 U.S.C. § 4242(a) and that a report be filed with the court pursuant to the provisions of 18 U.S.C. § 4247(c), which in pertinent part provides:

(c) Psychiatric or psychological reports.--A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include--

- (1) the person's history and present symptoms;
- (2) a description of the psychiatric, psychological, and medical tests that were employed and their results;
- (3) the examiner's findings; and

(4) the examiner's opinions as to diagnosis, prognosis, and--

* * *

(B) if the examination is ordered under section 4242, whether the person was insane at the time of the offense charged;

Dr. Kent Berney, a psychologist licensed in the State of Wisconsin, has agreed to perform the examination. Dr. Berney's resume is attached hereto. The Clerk is directed to send a copy of this order, the Indictment, and any pretrial services report concerning the defendant to Dr. Berney, and both parties may provide Dr. Berney with relevant documents, records, or other reports that may be pertinent to the defendant's mental state at the time of the offense. A copy of any record or report provided to Dr. Berney must be provided to opposing counsel.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Dr. Kent Berney is appointed to conduct a psychological examination of the defendant at the Brown County Jail and to prepare a report in compliance with this order.

2. Upon completion of the examination, Dr. Berney's report is to be filed with the Court and distributed to the parties. Upon receipt of Dr. Berney's report, the Clerk shall set this matter on the court's calendar for further proceedings.

3. Any period of delay resulting from the examination and evaluation of the defendant shall be excluded from computation under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(1)(A).

Dated this 21st day of June, 2019.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court - WIED